



## **Enforceable Undertaking**

*Aged Care Quality and Safety Commission Act 2018*

Section 74EC

*Regulatory Powers (Standard Provisions) Act 2014*

Section 114

The commitments in this undertaking are offered to the Aged Care Quality and Safety Commissioner by:

**Maranatha House**

**ABN 22 003 384 843**

**RACS 0223**

**127 - 137 Whiteley Street WELLINGTON NSW 2820**

## **Part 1. Definitions**

In addition to terms defined elsewhere in this Undertaking and in the associated legislation, the following definitions are used:

**Acceptance Date** means the date of acceptance by the Commissioner of this Undertaking

**Aged Care Act** means the *Aged Care Act 1997* (Cth)

**Approved Provider** means a person approved by the Commissioner under section 63 of the Commission Act as a provider of aged care

**Commission Act** means the *Aged Care Quality and Safety Commission Act 2018* (Cth)

**Commission Rules** means the *Aged Care Quality and Safety Commission Rules 2018* (Cth)

**Commission** means the Aged Care Quality and Safety Commission established by section 11 of the Commission Act

**Commissioner** means the Commissioner of the Commission, or a person delegated under section 76 of the Commission Act to perform the Commissioner's functions or exercise the Commissioner's powers

**NDIS** means a Notice of Decision to Impose Sanctions under section 63N of the Commission Act

**NCN** means a Non-Compliance Notice under section 63S(2) of the Commission Act

**NTA** means a Notice of Requirement to Agree to Certain Matters under section 63U(2) of the Commission Act

**NTR** means a Notice Requiring an Undertaking to Remedy Non-Compliance under section 63T(2) of the Commission Act

**Provider** means Maranatha House, RACS 0223, in its capacity as an Approved Provider

**Quality Standards** means the Aged Care Quality Standards contained in Schedule 2 of the *Quality of Care Principles 2014* (Cth)

**Regulatory Powers Act** means the *Regulatory Powers (Standard Provisions Act) 2014* (Cth)

**Requirement** means a requirement under the Quality Standards



**Service** means the residential care service, described below, through which the Provider provides residential care:

Maranatha House, 127-137 Whiteley Street, WELLINGTON NSW 2820

**Undertaking** means this Enforceable Undertaking

**UTR** means an Undertaking to Remedy by an Approved Provider under section 63T(3) of the Commission Act

## Part 2. General Information

### 2.1 The Commissioner's role

The Commissioner has responsibility for the regulatory functions under the Commission Act including the power to accept an enforceable undertaking in accordance with section 114 of the Regulatory Powers Act.

### 2.2 Purpose

The purpose of this Undertaking is to state the undertakings offered by the Provider and accepted by the Commissioner under section 74EC of the Commission Act and section 114 of the Regulatory Powers Act in relation to the non-compliance described in Part 3 of this Undertaking.

### 2.3 Commencement

This Undertaking commences on the date that the Commissioner signs the Undertaking. Upon the Undertaking taking effect, the Undertaking becomes enforceable under section 115 of the Regulatory Powers Act.

### 2.4 Term of the Enforceable Undertaking

This Undertaking continues, as varied from time to time (subject to the Commissioner's consent), from the commencement date until it is withdrawn by the Provider with the Commissioner's consent under section 114 of the Regulatory Powers Act or cancelled by the Commissioner under section 114 of the Regulatory Powers Act, whichever is earlier.

### **Part 3. History of non-compliance**

- 3.1.1 Between 25 to 28 February 2020, the Commission conducted a site audit at the Service. In a Performance Report dated 8 May 2020, the Commission found that the Provider was non-compliant with Standard 1, Standard 2, Standard 3, Standard 5, Standard 6, Standard 7 and Standard 8 of the Quality Standards.
- 3.1.2 Between 6 to 8 July 2020, the Commission conducted an assessment contact at the Service for the purpose of assessing the Provider's performance, in relation to the Service, against the Quality Standards. In a Performance Report dated 31 August 2020, the Commission found that the Provider was non-compliant with Standard 1, Standard 2, Standard 3, Standard 5, Standard 6, Standard 7 and Standard 8 of the Quality Standards.
- 3.1.3 On 9 September 2020, the Commission issued a NCN to the Provider. The NCN was issued to the Provider due to its non-compliance with Standard 1, Standard 2, Standard 3, Standard 5, Standard 6, Standard 7 and Standard 8 of the Quality Standards.
- 3.1.4 Between 17 to 18 February 2021, the Commission conducted an assessment contact at the Service for the purpose of assessing the Provider's performance, in relation to the Service, against the Quality Standards. In a Performance Report dated 19 April 2021, the Commission found that the Provider was non-compliant with Standard 1, Standard 2, Standard 3, Standard 5, Standard 6, Standard 7 and Standard 8 of the Quality Standards.
- 3.1.5 Between 23 to 26 April 2021, the Commission conducted a site audit at the Service. In a Performance Report dated 3 June 2021, the Commission found that the Provider was non-compliant with Standard 1, Standard 2, Standard 3, Standard 4, Standard 5, Standard 6, Standard 7 and Standard 8 of the Quality Standards.
- 3.1.6 On 6 May 2021, the Commission issued a NTA and a NDIS to the Provider. The Commission issued the NTA and NDIS on the basis that the Provider was not compliant with its responsibilities under Chapter 4 of the Aged Care Act and that because of this non-compliance, there was an immediate and severe risk to the safety, health and well-being of care recipients at the Service. The Commission relied upon the information contained in the site audit report, which was prepared following the site audit undertaken from 23 to 26 April 2021, to support its decision to issue the NTA and NDIS.

- 3.1.7 In respect of the NDIS, the Commission decided that the Provider was not eligible to receive Commonwealth subsidies for any new care recipients at the Service for a period of four (4) months.
- 3.1.8 Between 8 to 10 February 2022, the Commission conducted a site audit at the Service. In a Performance Report dated 21 March 2022, the Commission found the Provider non-compliant with Standard 1, Standard 2, Standard 3, Standard 4, Standard 6, Standard 7 and Standard 8 of the Quality Standards.
- 3.1.9 Between 18 to 20 January 2023, the Commission conducted a review audit at the Service. The Commission found that the Provider was non-compliant with Standard 2, Standard 3, Standard 7 and Standard 8 of the Quality Standards.
- 3.1.10 Following are the areas of non-compliance:
- **Deficiencies in Restrictive Practices Management:** The service demonstrated a lack of consistent documentation and implementation of non-pharmacological interventions before administering of psychotropic medications. Furthermore, there is a shortfall in adhering to best practices in the review, reporting, and consent procedures associated with restrictive practices.
  - **Risk Management:** There's a lack of effective identification and management of high-impact or high-prevalence risks, such as medication administration, behavioural support, wound care, pain and skin integrity management.
  - **Staff Competency and Monitoring:** There's insufficient evidence that all staff have the necessary qualifications, knowledge, and competence for their roles, regarding incident management, restrictive practices, and pressure injury identification.
  - **Training and Support:** The service could not demonstrate that Staff are adequately trained or supported to deliver the outcomes required by the Quality Standards. The Service could not clearly identify mandatory training and did not have effective mechanisms to ensure completion of mandatory trainings. There is a lack of regular and thorough assessment, monitoring, and review of staff performance in accordance with the service's policies.
  - **Policies and procedures:** The service demonstrated a lack of effective organisational governance relating to information management, workforce governance, and regulatory compliance. Policies did not consistently align with staff practices and were not updated with current legislative changes.

#### **Part 4. The Commissioner's concerns**

4.1 As a result of the matters referred to in Part 3 above, the Commissioner has, and continues to have, concerns with respect to the Provider's compliance with its responsibilities under Chapter 4 of the Aged Care Act and, in particular, its compliance with the Quality Standards.

#### **Part 5. Admissions**

5.1 The Provider admits the non-compliance identified in Part 3 and accepts the Commissioner has the concerns identified in Part 4.

#### **Part 6. Undertakings**

6.1 In accordance with the operation of section 114 of the Regulatory Powers Act and section 74EC of the Commission Act, the Provider has offered, and the Commissioner has accepted the following undertakings by the specified completion date of 31 December 2023:

##### **6.1.1 Workforce Management Systems:**

The Provider will ensure that a workforce governance framework is in place, including monitoring of staff competency assessments, database management, police check clearances, and performance appraisals. The Provider will also clearly identify mandatory trainings for staff and implement mechanisms for the completion and monitoring to ensure training results in improved care.

This Framework will be developed and implemented by 30 June 2023. The Provider will monitor implementation and ensure compliance with the Framework by 31 December 2023.

##### **6.1.2 Policies and Procedures:**

The Provider will develop a mechanism to implement policies and procedures on a digital platform, ensuring continuous updates in response to legislative changes in a timely manner. This approach will help staff stay up-to-date and compliant with all relevant regulations and guidelines. The Provider will also ensure that staff receive training through toolbox talks and one-on-one sessions as needed and have access to the digital platform.

This Framework will be developed and implemented by 31 July 2023. The Provider will monitor implementation and ensure compliance with the Framework by 31 December 2023.

##### **6.1.3 Clinical Governance:**

The Provider will establish a clinical governance committee as a subcommittee of the Board to ensure clinical care at the service meets the required standards. The Provider will ensure that all data related to incidents, such as psychotropic medication management, wound care, injuries and falls, and the use of restrictive practices, is presented to the clinical governance committee monthly through the monthly Board meeting report. Additionally, the Provider will maintain transparency in complaint management and serious incidents through

the provision of clinical governance reports to the Clinical Governance Committee and the Board.

This Framework will be developed and implemented by 31 May 2023. The Provider will monitor implementation and ensure compliance with the Framework by 31 December 2023.

#### 6.1.4 Submission of report to the Commission:

The Provider will submit a comprehensive and detailed self-assessment of the above undertakings, to the Commission by 31 December 2023. The Provider will demonstrate, with clear evidence, the following in relation to each undertaking:

- what steps the Provider has taken to give effect to each undertaking;
- the impact of those steps on achieving compliance with the Quality Standards; and
- a statement explaining how improved compliance will be sustained.
- Milestones reporting will be delivered monthly via the monthly compliance meeting.

### 6.2 Costs of Compliance

The Provider undertakes that it will pay all of its costs associated with its compliance with this Undertaking.

## Part 7. Acknowledgments and statements

7.1 The Provider acknowledges that the Commissioner:

7.1.1 Will publish this Undertaking on the Commission's website.

7.1.2 May make public reference, including by way of media release and/or Commission publications of acceptance of this Undertaking referring to its terms and to the concerns of the Commissioner which led to its acceptance, however the terms of any media release must be consistent with this Undertaking.

7.2 The Provider acknowledges that:

7.2.1 This Undertaking has no operative force until accepted by the Commissioner, evidenced by the signing of this Undertaking by the Commissioner.

7.2.2 The date of the Undertaking is the date on which it is accepted by the Commissioner.

- 7.2.3 The Undertaking is given voluntarily by the Provider, who has obtained legal advice in relation to its obligations under, and the effect of, this Undertaking.
- 7.2.4 The Commissioner's acceptance of this Undertaking does not affect any rights, remedies, and powers available to the Commission, or the Commonwealth.
- 7.2.5 The Commissioner may undertake compliance monitoring activities to verify the evidence submitted as required by Part 6 and the Provider's compliance with the Undertaking.
- 7.2.6 The Commissioner has the power to enforce the Undertaking under section 115 of the Regulatory Powers Act and may exercise this power if any requirement or condition of the Undertaking is breached.
- 7.2.7 If any part of this Undertaking is held invalid that part shall be severed from this Undertaking and the remainder of this Undertaking will continue to be valid and enforceable.
- 7.2.8 The references to provisions of Commonwealth Acts of Parliament and Legislative Instruments in this Undertaking shall include references to those provisions as amended from time to time and in the event of a repeal of any of them, any equivalent provision from time to time.

### **7.3 Statement of ability to comply.**

The Provider confirms it has the operational and financial capacity to comply with the Undertaking.

## **Part 8. Provision of Documents**

The address for providing the Commission with any notice or document which this Undertaking requires to be provided is:

### **Aged Care Quality and Safety Commission**

GPO Box 9819

CANBERRA ACT 2601

Attention: Amanda Innes-Brown

*Or via email: [compliance@agedcarequality.gov.au](mailto:compliance@agedcarequality.gov.au)*

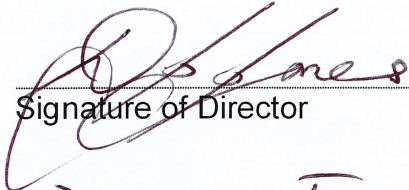




**Maranatha House**  
AGED CARE

**Executed by [Maranatha House]**

**ABN 22 003 384 843** in accordance  
with its constitution

  
Signature of Director

DALE JONES  
Name of Director  
*(please print)*

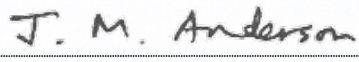
  
Signature of Director

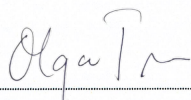
RAE BATHO  
Name of Director  
*(please print)*

Date accepted by the Commissioner:

29 May 2023

**ACCEPTED** by the **AGED CARE  
QUALITY AND SAFETY  
COMMISSIONER** under section 74E  
of the Commission Act and Section  
114 of the Regulatory Powers Act

  
Aged Care Quality & Safety  
Commissioner

  
Witness

Olga Popovic  
Witness full name *(please print)*